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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,704	03/09/2004	Michael Austin	S63.2-14067-US01	4218
490 7590 11/30/2009 VIDAS, ARRETT & STEINKRAUS, P.A. SUITE 400, 6640 SHADY OAK ROAD EDEN PRAIRIE, MN 55344				
			EXAMINER EDWARDS, LAURA ESTELLE	
			ART UNIT 1792	PAPER NUMBER
			MAIL DATE 11/30/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/797,704

Applicant(s)

AUSTIN ET AL.

Examiner

Laura Edwards

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/12/09.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17, 19-29 and 36-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17, 19-29, and 36-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Translation Requested

Acknowledgement is made of a request for the translation of JP11-111423. The English translation should be available within two months. Upon receipt of the translation, a copy will be supplied to Applicants.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 22/21, 23-26 and 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pacetti et al (US 2005/0074544) in view of Shibata (JP 11-111423) for reasons set forth in the final office action.

With respect to the amended claim 22, Pacetti provides for a single metering doctor (84) but not one for removing excess coating material. However, Shibata provides for one or more metering mechanisms in the form of blades (500/100) for removal of excess coating material from the surface of the first roller (201) so as to control the amount of coating material applied to the cylindrical member. It would have been well within the purview of one skilled in the art to provide a doctoring blade to remove excess coating material from the first roller surface and/or even the second roller as removal of excess material would prevent application of an excess amount of coating material to the stent.

Claims 17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pacetti et al (US 2005/0074544) in view of Shibata (JP 11-111423) as applied to claim 22 above and further in view of Pacetti (US 7,175,874) for reasons set forth in the previous office action.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pacetti et al (US 2005/0074544), Shibata (JP 11-111423), and Pacetti (US 7,175,874) as applied to claim 17 above and further in view of Layrolle et al (US 2001/0008649) for reasons set forth in the previous office action.

Claims 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pacetti et al (US 2005/0074544) in view of Shibata (JP 11-111423) as applied to claim 22 above and further in view of Kirk Othmer for reasons set forth in the previous office action.

Claims 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pacetti et al (US 2005/0074544) in view of Shibata (JP 11-111423) as applied to claim 22 above and further in view of Pomper (US 2,842,092) for reasons set forth in the previous office action.

Response to Arguments

Applicants' arguments filed 8/12/09 have been fully considered but they are not persuasive.

Applicants contend that the obviousness rejection of the instantly claimed invention should be withdrawn because Pacetti in Figure 10 teaches a direct coating roller arrangement and

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the Pacetti rollers 76, 78 are not configured such that coating material is transferred from the surface of one roller to the surface of the other as required by claim 22 such that a person of ordinary skill in the art would not have been motivated to modify Pacetti according to the teachings of Shibata as asserted in the rejection.

This argument is not convincing to withdraw the obviousness rejection merely because Applicants have provided for an indirect coating roller arrangement for a stent. The basis of the rejection is not to modify Pacetti but establish the conventional wisdom in the art to coat a stent using a conventional direct coating roller arrangement which is taught by Pacetti. Shibata provides for a conventional indirect coating roller arrangement, specifically for coating of a cylindrical type object. One of ordinary skill in the art would readily appreciate utilizing an indirect coating arrangement as taught by Shibata in place of the Pacetti direct coating arrangement as an alternative arrangement for coating the stent to allow for a more metered supply of coating material onto the surface of the stent thereby enhancing uniformity in coating on the surface of the stent.

Applicants contend that Pacetti teaches a specialized medical device coating system, whereas Shibata teaches coating a spark plug so a person of ordinary skill in the art would not have looked to a method of applying conductive paste to a spark plug when attempting to improve upon the Pacetti coating system, especially to allow for a more metered supply of coating material onto the surface of the stent thereby enhancing uniformity in coating on the surface of the stent.

This argument is well taken in that a stent being coated by a roller coating arrangement and a spark plug being coated by a roller coating arrangement would appear to be a far fetched

combination. Yet the relation is on point because both relate to coating, specifically coating with a roller arrangement, and using the coating roller arrangement to apply a coating on a cylindrically shaped object. Again, this argument is not convincing to withdraw the obviousness rejection under Pacetti and Shibata because the stent has not been given any patentable weight.

Applicants finally contend that if an indirect coating arrangement such as the one of Shibata would allow for a more metered supply of coating material onto the surface of the stent thereby enhancing uniformity in coating on the surface of the stent then there is no evidence provided as to how the Shibata system would perform relative to the Pacetti system.

This argument is deemed moot in that the Examiner does not have to provide evidence as to the performance of one arrangement from another and neither does the Examiner have access to some type of testing facility. Logically speaking, an indirect coating arrangement such as the one of Shibata along with the metering mechanisms (i.e., blades (500/101)) would allow for more instances of excess coating to be removed from the roller surfaces before application to the cylindrical object or stent. By the time the coating is applied to the cylindrical object or stent using an indirect coating arrangement, the coating would be smoother. Therefore, enhanced uniformity of the coating would result.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura Edwards whose telephone number is (571) 272-1227. The examiner can normally be reached on Monday-Wednesday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nadine Norton can be reached on (571) 272-1465. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Laura Edwards/
Primary Examiner
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November 21, 2009